

On April 6, 2006 appellant, then a 34-year-old mail carrier, filed an occupational disease claim alleging that on March 20, 2006 she awoke and could not move her right hand. She alleged that she had been casing mail “all the week” for eight hours a day and that this resulted in tendinitis. Appellant submitted with her claim a documentation of medical impairment statement dated March 20, 2006 and signed by a clinician at Kaiser Permanente indicating that appellant

was unable to work for three days due to tendinitis. She also submitted a statement dated April 6, 2006 wherein she indicated that on that date she went to urgent care because she thought that she broke her wrist but that the urgent care center informed her that it was tendinitis and that it was work related.

By letter dated April 10, 2006, the employing establishment controverted the claim, alleging that appellant had not established that her injury was causally related to her federal employment. The employing establishment suggested that appellant's condition was related to her nonemployment activities. Specifically, the employing establishment alleged that appellant's tendinitis could have occurred as a result of her employment as an exotic dancer.

By letter dated April 14, 2006, the Office requested that appellant submit further information including additional information about her work duties and her activities outside of employment along with a rationalized medical opinion that showed a cause and effect relationship between her condition and her employment. Appellant did not submit a timely response to the request for factual information.

In a medical report dated May 2, 2006, Dr. John C. Norton diagnosed right hand flexor tendinopathy. Appellant gave Dr. Norton a history of casing mail the previous week for eight hours per day straight. She informed him that her hand hurt but she ignored it, but then on Sunday when she woke up it was swollen and that she could not move her fingers. Dr. Norton indicated:

"The findings and diagnosis on this patient are consistent with history of injury. There is no other current condition that will impede or delay [appellant's] recovery. In my opinion, the injury is work related and should be covered under the workers' comp[ensation] guidelines for compensability."

Dr. Norton placed appellant on modified-duty restrictions for two weeks.

On May 8, 2006 appellant submitted a medical report dated March 31, 2006, by Dr. Margarita Schneider-Munoz, a Board-certified internist, who stated that she saw appellant on March 20, 2006 at which time she was complaining of right medial wrist pain. An x-ray of appellant's wrist on that date was interpreted by Dr. Albert W. Cho, a Board-certified radiologist, as evidencing "a 0.5 [centimeter] oval calcification ... adjacent to the triquetrum which may represent an ossicle or old trauma. No evidence of an acute fracture or dislocation is present."

By decision dated May 24, 2006, the Office denied appellant's claim as the factual and medical evidence was not sufficient to establish that appellant sustained an injury under the Federal Employees' Compensation Act.¹

LEGAL PRECEDENT

An employee seeking benefits under the Act has the burden of establishing the essential elements of his or her claim, including the fact that the individual is an "employee of the United

¹ 5 U.S.C. § 8101 *et seq.*

States” within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.² These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.⁴

ANALYSIS

The Office denied appellant’s claim because she failed to establish employment factors that caused or contributed to her condition. After appellant submitted her claim, the Office requested that she submit further information including a detailed description of the employment activities alleged to have caused the condition, a description of all activities outside of federal employment and a description of the development of the claimed condition. Appellant did not respond to the Office’s request. Accordingly, other than the brief statement in her claim form that she was casing mail eight hours per day the week prior to her injury, appellant provided no explanation as to how the injury occurred. She did not explain the specific circumstances of her injury or describe her duties in casing the mail. This omission is particularly important as the employing establishment submitted a letter wherein it controverted appellant’s claim, and contended that her alleged injury could have been caused by her other employment.

Appellant has the burden of proof to establish the work conditions giving rise to her claim. Despite the Office’s request, appellant did not provide the requested information that was necessary to establish the work incident or conditions that she alleged caused her injury. The Office was not required to notify appellant a second time of the need for further information.⁵ Accordingly, as appellant did not establish that specific employment factors caused or contributed to the presence or occurrence of the disease or condition, appellant did not meet the criteria for establishing that she sustained an occupational disease in the course of her federal employment. As appellant failed to establish employment factors, it is not necessary to review the medical evidence to determine whether appellant sustained an injury resulting from the implicated employment factors. The Board finds, therefore, that the Office properly denied appellant’s claim for compensation.

² *Joe D. Cameron*, 41 ECAB 150 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ *Solomon Polen*, 51 ECAB 441 (2000); *see also Michael E. Smith*, 50 ECAB 265 (1999).

⁵ 20 C.F.R. § 10.121.

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish that she sustained tendinitis causally related to factors of her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated May 24, 2006 is affirmed.

Issued: October 6, 2006
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board